

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1962 of 2017

Gudar Ram @ Sipahi S/o Budau Ram Nagesiya, aged about 50 years R/o Village Dumardih, P.S. Dhourpur, Distt. Surguja (C.G.).

---- Appellant

Versus

State of Chhattisgarh through Station House Officer, P.S. Dhourpur, Distt. Surguja (C.G.)

---- Respondent

For Appellant : Mr. Ravindra Sharma, Advocate
For Respondent : Mr. Alok Nigam, Govt. Adv.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

26/06/2020

1. The matter is heard through video conferencing.
2. By the impugned judgment dated 02/11/2017 passed in Special Criminal Case No. 43/2016 by the Additional Sessions Judge, (FTC), Surguja at Ambikapur (C.G.), whereby the appellant has been convicted under Sections 363, 366 and 354 of the Indian Penal Code and Section 7/8 of the POCSO Act and sentenced to undergo RI for three years with fine of Rs. 500/-, RI for three years with fine of Rs. 500/-, RI for two years with fine of Rs. 500/- and RI for three years with fine of Rs. 500/-, respectively, with default stipulations.
3. Facts of the case are that the age of the Prosecutrix (PW2) was about 10 years at the time of incident. According to the case of the prosecution on 23/02/2015 at about 4:00 pm, when the Prosecutrix was riding the cycle near the house of Umesh, at that time the

appellant came there and told her to take his Gathari to the Badi. He told her to give some money, on which the Prosecutrix (PW2) lifted his Gathari and went there. Thereafter, the appellant fallen the Prosecutrix on the floor and pinched her hand by a pin. He removed her Salwar. At that time, father of the Prosecutrix came there and took the Prosecutrix with him. The matter was reported by Bhanwar Sai (PW1) vide Ex.P-1. Later on, statements of witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges.

4. After completion of trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
5. A report received from Superintendent of Jail, Ambikapur, District Surguja would mention that the appellant has already been released on 12/03/2019 after completing the entire jail sentence imposed upon the appellant.
6. Counsel for the appellant has submitted that the trial Court has wrongly convicted the Appellant without there being any evidence available on record. There are material contradictions and omissions occurred in the statement of the witnesses. The finding of the trial Court is contrary to the evidence adduced by the Prosecution.
7. Counsel appearing on behalf of the State supported the judgment of the trial Court.
8. Heard counsel for the parties and perused the record.
9. I have gone through the entire evidence led by the prosecution. In her Court statement, the Prosecutrix (PW2) has supported the entire case

of the prosecution. Her statement is duly corroborated by Bhanwar Sai (PW1). Though some contradictions and omissions occurred in their statements, they are not important. From the statement of Dr. Manorama Minz (PW7), it is also established that the Prosecutrix sustained injury on her finger. Apart from this, there is no dispute on the point that the Prosecutrix was below 10 years at the time of incident.

10. Considering the entire evidence available on record, in my considered view, the trial Court has rightly convicted the Appellant which does not require any interference.
11. Consequently, I do not find any merit in this appeal. The same is dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**